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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTHONY ALEXANDER SILIN,

Defendant and Appellant.

A155718

(Marin County
Super. Ct. No. SC202082A)

This is an appeal from an order revoking the probation of defendant Anthony Alexander Silin and imposing a previously suspended sentence of nine years in state prison based upon his admission of violating the terms and conditions of his probation.

After defendant filed a timely notice of appeal, appellate counsel was appointed to represent him. Appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*People v. Wende*), in which he raises no issue for appeal and asks this court for an independent review of the record. (See also *People v. Kelly* (2006) 40 Cal.4th 106, 124 (*People v. Kelly*).) Counsel attests that defendant was advised of his right to file a supplemental brief in a timely manner, but he has not exercised this right.

Mindful that our review is limited to grounds for appeal occurring after entry of the plea (Cal. Rules of Court, rule 8.304(b)(5)), we have examined the entire record in accordance with *People v. Wende* and *People v. Kelly*. For reasons set forth below, we agree with counsel that no arguable issue exists on appeal. Accordingly, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On February 14, 2018, an amended complaint was filed charging defendant with assault with a deadly weapon (knife) in violation of Penal Code section 245, subdivision (a)(1).¹ As to this charge, the amended complaint further alleged numerous enhancements, including that the offense was a serious or violent felony within the meaning of section 1170.12, subdivisions (a) through (c); that defendant inflicted serious bodily injury on the victim within the meaning of section 12022.7, subdivision (a); that defendant was ineligible for probation pursuant to section 1203, subdivision (e)(2); that defendant had two prior felony convictions within the meaning of section 1203, subdivision (e)(4); and that a criminal street gang enhancement applied pursuant to section 186.22, subdivision (b)(1).

Also on February 14, 2018, defendant, pursuant to a negotiated disposition,² pleaded guilty to the assault charge, admitted the gang enhancement, and received a promise of probation and dismissal of the alleged section 12022.7, subdivision (a) enhancement. In doing so, defendant stipulated to a factual basis for his plea that included the fact that he and a group of his associates attacked a rival Norteño gang member, R.A., wherein defendant pulled out a “commando knife” and stabbed Alvarez in his back, leaving a one-inch wide laceration. At the time, defendant was on two felony grants of probation.

On March 15, 2018, the trial court sentenced defendant to a total term of nine years in state prison, consisting of the upper four-year term for the assault count, plus a consecutive five-year term for the enhancement. In doing so, the trial court provided numerous reasons for selecting the aggravated term, including the fact that he had engaged in dangerous conduct indicating a serious danger to society. (Cal. Rules of Court, rule 4.421(a)(4) [inducing others to participate], (a)(8) [planning or sophistication], (b)(1) [serious danger to society], (b)(2) [prior convictions], (b)(4) [on

¹ Unless otherwise stated, all statutory citations herein are to the Penal Code.

² Defendant stipulated to a factual basis for his plea.

probation when crime committed], (b)(5) [prior unsatisfactory performance of probation].) The court found no factors in mitigation. (Cal. Rules of Court, rule 4.423.)

On the People's motion, the trial court then dismissed the section 12022.7, subdivision (a) enhancement, as well as an unrelated case, No. CR202886A. The trial court also suspended imposition of sentence and placed defendant on formal probation for three years subject to numerous terms and conditions, including that he not associate with codefendant Brian Rodas-Gramajo or other known gang members, and ordered him to pay restitution to R.A. in an amount to be determined by the probation department. In addition, the trial court imposed a \$300 restitution fine (§ 1202.4) and also imposed, but then suspended, a \$300 probation revocation fine (§ 1202.44). The court ordered defendant to pay \$1,000 for the presentence report and, in a separate order, a monthly supervised probation fee of \$50 subject to his ability to pay. Lastly, the court awarded defendant 25 days of actual custody credits and 24 days of local conduct credits for a total of 49 days of presentence custody credits. Defendant, in open court, accepted and agreed to abide by the terms and conditions of his probation.

On March 21, 2018, a petition for revocation (petition) was filed alleging defendant violated the terms and conditions of his probation by failing to obey all laws and by associating with codefendant Rodas-Gramajo. On March 27, 2018, the trial court revoked defendant's probation. At his subsequent arraignment, defendant denied the allegations in this petition.

On July 19, 2018, defendant, after being advised by his attorney of his constitutional right to a hearing, waived a probation revocation hearing, admitted the allegations in the petition and stipulated to a factual basis for the probation violation.³ In

³ The stipulated factual basis included the following information. On March 19, 2018, police received a report of two males attempting to break into a car on Canal Street in the City of San Rafael. An officer thereafter located two subjects, identified as defendant and Rodas-Gramajo, who claimed to have just run into each other. Two witnesses at the scene were later interviewed. One of the witnesses described being punched by defendant in the stomach as he walked by defendant and Rodas-Gramajo on a public sidewalk. Rodas-Gramajo, in turn, grabbed the victim's neck. Both defendant and

doing so, he confirmed that, as a consequence of his admission, “the court may impose other fees and assessments in addition to the penal fines described above, as provided by law. The court is also required to order restitution to the victim(s). The court must also order a restitution fine, and probation revocation restitution fine, each of not less than \$150 or more than \$1,000 per misdemeanor count, pursuant to Penal Code Sections 1202.4(b), and 1202.44.”

The trial court thus found defendant in violation of his probation, revoked and terminated his probation, and ordered execution of the previously suspended sentence. Accordingly, defendant was sentenced to the total term of nine years in state prison and ordered to pay restitution to the victim in an amount and manner to be determined by the probation department subject to court review on defendant’s timely objection. In addition, the trial court imposed the \$300 restitution fine (§ 1202.4), a suspended \$300 parole revocation fine (§ 1202.45), \$40 court operations assessment (§ 1465.8), \$30 criminal conviction assessment (Gov. Code, § 70373), and \$25 administrative screening fee. Lastly, the court awarded defendant 185 days of actual custody credits and 73 days of local conduct credits for a total of 258 days of presentence custody credits.⁴ This timely appeal of the sentence or other matters occurring after entry of the plea followed.

DISCUSSION

Neither appointed counsel nor defendant has identified any issue for our review. Upon our own independent review of the entire record, we agree none exists. (*People v. Wende, supra*, 25 Cal.3d 436.) The trial court found defendant in violation of his probation after he, represented by counsel, freely and voluntarily admitted violating the court-ordered conditions that he obey all laws and not associate with codefendant Rodas-Gramajo. The trial court was therefore authorized to revoke his probation and impose the

Rodas-Gramajo then tried unsuccessfully to grab the beer from the victim’s hand, while one of them grabbed the victim’s phone. Defendant and Rodas-Gramajo then fled on foot before eventually being detained.

⁴ In March 2019, at defendant’s request, the trial court modified the local conduct credit award from 73 days to 184 days.

previously suspended sentence, totaling nine years. The trial court also ordered him to pay restitution to the victim and imposed the aforementioned fees, fines and assessments. The trial court's sentencing decisions based upon defendant's admitted violation of the terms and conditions of his probation were proper. (See §§ 1202.4, 1202.45, 1465.8; Gov. Code, § 70373; *People v. Segura* (2008) 44 Cal.4th 921, 932 ["During the period of probation, the court may revoke, modify, or change its order suspending imposition or execution of the sentence, as warranted by the defendant's conduct. (§§ 1203.2, 1203.3)"].)

Having ensured defendant has received adequate and effective appellate review, we affirm the trial court's judgment. (*People v. Kelly, supra*, 40 Cal.4th at pp. 112–113; *People v. Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

Wiseman, J.*

WE CONCUR:

Siggins, P. J.

Fujisaki, J.

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* Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.